

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

**FILED**  
NOV 16 2017  
Clerk, U.S. Courts  
District Of Montana  
Missoula Division

FORREST SCOTT SMART,

CV 15-87-H-DLC-JTJ

Plaintiff,

ORDER

vs.

LEROY KIRKEGARD, et al.,

Defendants.

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this case on October 4, 2017, recommending that Defendants' Motion for Summary Judgment (Doc. 28) be granted and this matter dismissed. Plaintiff Forrest Scott Smart did not timely object to the Findings and Recommendations, and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

After reviewing the record and finding no clear error,

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 35) are ADOPTED IN FULL. The Defendants' Motion for Summary Judgment (Doc. 28) is GRANTED and this matter is DISMISSED.

IT IS FURTHER ORDERED that the Clerk of Court will close this matter and enter judgment in favor of Defendants pursuant to Fed. R. Civ. P. 58.

IT IS FURTHER ORDERED that the Clerk of Court shall ensure that the docket reflects that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal to be meritorious.

DATED this 16<sup>th</sup> day of November, 2017.

A handwritten signature in black ink, reading "Dana L. Christensen", written over a horizontal line.

Dana L. Christensen, Chief Judge  
United States District Court